

Message Text

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46

ACTION L-03

INFO OCT-01 EA-11 IO-14 ISO-00 ACDA-19 AID-20 CIAE-00

DODE-00 PM-07 H-03 INR-10 NSAE-00 NSC-10 PA-04 RSC-01

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NEA-11 DPW-01 SR-02 ORM-03 OIC-04 DRC-01 /191 W

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R 081130Z FEB 74

FM AMEMBASSY SAIGON

TO SECSTATE WASHDC 1590

INFO AMEMBASSY BERN

USMISSION GENEVA

USDEL JEC PARIS

USUN NEW YORK 606

C O N F I D E N T I A L SAIGON 1796

E.O. 11652: GDS

TAGS: PARM, ICRC, VN

SUBJECT: "PRG" ACCESSION TO GENEVA CONVENTIONS AND "PRG" EFFORTS
TO OBTAIN INVITATION TO DIPLOMATIC CONFERENCE ON LAWS OF WAR

REFS: A) STATE 026200; B) STATE 021561

1. AS SUPPLEMENTARY MATERIAL TO EXCELLENT POINTS MADE BY
DEPUTY LEGAL ADVISER ALDRICH (REF A), DEPARTMENT SHOULD BE ABLE TO
MAKE GOOD USE OF RESERVATIONS EXPRESSED BY "PRG" IN ACCEDING TO
GENEVA CONVENTIONS (REF B). "PRG" RESERVATION REGARDING ARTICLE
4 OF GENEVA CONVENTION RELATIVE TO THE TREATMENT OF THE PRISONERS
OF WAR IS PARTICULARLY REVEALING OF "PRG" ATTITUDE TOWARD LAWS OF
WAR. RESERVATION READS: "THE PROVISIONAL REVOLUTIONARY GOVERNMENT
OF THE REPUBLIC OF SOUTH VIET-NAM DOES NOT RECOGNIZE
THE 'CONDITIONS' PROVIDED FOR UNDER PARAGRAPH 2 OF THIS ARTICLE CON-
CERNING 'MEMBERS OF OTHER MILITIAS AND MEMBERS OF OTHER VOLUNTEER
CORPS, INCLUDING THOSE OF ORGANIZED RESISTANCE MOVEMENTS, BECAUSE
THESE CONDITIONS ARE NOT APPROPRIATE FOR THE CASES OF PEOPLE'S WARS
IN THE WORLD TODAY.'" (REF A, PARA 6).

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2. WE RECALL THAT PARAGRAPH 2 OF ARTICLE 4 OF THE PRISONER OF WAR CONVENTION PROVIDES THAT "MEMBERS OF OTHER MILITIAS AND MEMBERS OF OTHER VOLUNTEER CORPS, INCLUDING THOSE OF ORGANIZED RESISTANCE MOVEMENTS, BELONGING TO A PARTY TO THE CONFLICT AND OPERATING IN OR OUTSIDE THEIR OWN TERRITORY, EVEN IF THIS TERRITORY IS OCCUPIED", HAVE PRISONER OF WAR STATUS, IF CAPTURED, UNDER THE CONVENTION PROVIDED THAT THE FOLLOWING FOUR CONDITIONS ARE MET: " (A) THAT OF BEING COMMANDED BY A PERSON RESPONSIBLE FOR HIS SUBORDINATES; (B) THAT OF HAVING A FIXED DISTINCTIVE SIGN RECOGNIZABLE AT A DISTANCE; (C) THAT OF CARRYING ARMS OPENLY; (D) THAT OF CONDUCTING THEIR OPERATIONS IN ACCORDANCE WITH THE LAWS AND CUSTOMS OF WAR." IN OTHER WORDS, THE "PRG" POSITION IS THAT IRREGULAR FORCES, INCLUDING RESISTANCE MOVEMENTS SHOULD ENJOY THE PROTECTION OF THE GENEVA CONVENTIONS WHEN CAPTURED IN THE SAME MANNER AS REGULAR ARMED FORCES BUT WITHOUT ANY MEANS OF DISTINGUISHING SUCH FORCES FROM ORDINARY CRIMINALS AND TERRORISTS WHO OF COURSE DO NOT NOW ENJOY SUCH PROTECTION. IN PARTICULAR, THE "PRG'S" PROPOSED WAIVING OF THESE FOUR CONDITIONS LEADS TO THE ABSURD CONCLUSION THAT INDIVIDUALS BELONGING TO ORGANIZATIONS SUCH AS THE IRA AND THE "JAPANESE RED ARMY" ARE ENTITLED TO THE PROTECTION OF THE GENEVA CONVENTION WHATEVER CRIMES THEY COMMIT IN THE NAME OF THEIR "CAUSES".

3. THE IRREGULAR FORCES OF THE "PRG" (AND OF THE DRV) ARE NOTORIOUS FOR HAVING CONDUCTED THEIR WAR AGAINST THE GVN WITH LITTLE REGARD FOR THE LAWS OF WAR AND IN FACT FOR HAVING MADE USE OF TERRORIST TACTICS A REGULAR PRACTICE. DURING THE VIET-NAM WAR, AND EVEN NOW AFTER THE CEASE-FIRE, "PRG" FORCES HABITUALLY MORTARED DENSELY POPULATED AREAS, MINED ROADS AND BRIDGES TRAVELLED BY CIVILIAN TRAFFIC, ASSASSINATED CIVILIANS, DESTROYED REFUGEE SETTLEMENTS BY FIRE AND EXPLOSION AND COMMITTED OTHER SIMILAR ACTS OF WANTON TERRORISM. THEIR IRREGULAR FORCES WHO WERE RESPONSIBLE FOR SUCH CRIMES WOULD INDEED HAVE DIFFICULTY QUALIFYING FOR PROTECTION OF THE GENEVA CONVENTION AS IT IS NOW WORDED.

4. IT SEEMS CLEAR TO US FROM THIS RESERVATION THAT THE "PRG" IS SEEKING TO LEGALIZE ITS TERRORIST PRACTICES AND PROTECT ITS TERRORIST AGENTS FROM EXISTING LEGAL SANCTION. WE DO NOT SEE HOW THE PRESENCE OF PEOPLE HOLDING SUCH VIEWS COULD IN ANY WAY ADVANCE THE PURPOSES FOR WHICH THE FORTHCOMING DIPLOMATIC CONFERENCE ON LAW
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OF WAR IN GENEVA IS BEING CALLED.
MARTIN

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NNN

Message Attributes

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